

Department of State

§ 126.13

previous provisions of this subchapter, continue in full force and effect until or unless modified, revoked or superseded by the Department of State.

§ 126.13 Required information.

(a) All applications for licenses (DSP-5, DSP-61, DSP-73, and DSP-85), all requests for approval of agreements and amendments thereto under part 124 of this subchapter, and all requests for written authorizations must include a letter signed by a responsible official empowered by the applicant and addressed to the Directorate of Defense Trade Controls, stating whether:

(1) The applicant or the chief executive officer, president, vice-presidents, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is the subject of an indictment for or has been convicted of violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976);

(2) The applicant or the chief executive officer, president, vice-presidents, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government;

(3) To the best of the applicant's knowledge, any party to the export as defined in §126.7(e) has been convicted of violating any of the U.S. criminal statutes enumerated in §120.27 of this subchapter since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976), or is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from any agency of the U.S. government; and

(4) The natural person signing the application, notification or other request for approval (including the statement required by this subsection) is a citizen or national of the United States, has been lawfully admitted to the United

States for permanent residence (and maintains such a residence) under the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a), section 101(a)(20), 60 Stat. 163), or is an official of a foreign government entity in the United States.

(b) In addition, all applications for licenses must include, on the application or an addendum sheet, the complete names and addresses of all U.S. consignors and freight forwarders, and all foreign consignees and foreign intermediate consignees involved in the transaction. If there are multiple consignors, consignees or freight forwarders, and all the required information cannot be included on the application form, an addendum sheet and seven copies containing this information must be provided. The addendum sheet must be marked at the top as follows: "Attachment to Department of State License Form (insert DSP-5, 61, 73, or 85, as appropriate) for Export of (insert commodity) valued at (insert U.S. dollar amount) to (insert country of ultimate destination)." The Directorate of Defense Trade Controls will impress one copy of the addendum sheet with the Department of State seal and return it to the applicant with each license. The sealed addendum sheet must remain attached to the license as an integral part thereof. Port Directors of U.S. Customs and Border Protection and Department of Defense transmittal authorities will permit only those U.S. consignors or freight forwarders listed on the license or sealed addendum sheet to make shipments under the license, and only to those foreign consignees named on the documents. Applicants should list all freight forwarders who may be involved with shipments under the license to ensure that the list is complete and to avoid the need for amendments to the list after the license has been approved. If there are unusual or extraordinary circumstances that preclude the specific identification of all the U.S. consignors and freight forwarders and all foreign consignees, the applicant must provide a letter of explanation with each application.

(c) In cases when foreign nationals are employed at or assigned to security-cleared facilities, provision by the

applicant of a Technology Control Plan (available from the Defense Security Service) will facilitate processing.

[58 FR 39312, July 22, 1993, as amended at 70 FR 50965, Aug. 29, 2005; 71 FR 20547, Apr. 21, 2006; 75 FR 52624, Aug. 27, 2010]

§ 126.14 Special comprehensive export authorizations for NATO, Australia, and Japan.

(a) *Comprehensive authorizations.* With respect to NATO members, Australia, Japan, and Sweden, the Directorate of Defense Trade Controls may provide the comprehensive authorizations described in paragraphs (a) and (b) of this section for circumstances where the full parameters of a commercial export endeavor including the needed defense exports can be well anticipated and described in advance, thereby making use of such comprehensive authorizations appropriate.

(1) *Major project authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Directorate of Defense Trade Controls may provide comprehensive authorizations for well circumscribed commercially developed “major projects”, where a principal registered U.S. exporter/prime contractor identifies in advance the broad parameters of a commercial project including defense exports needed, other participants (e.g., exporters with whom they have “teamed up,” or subcontractors), and foreign government end users. Projects eligible for such authorization may include a commercial export of a major weapons system for a foreign government involving, for example, multiple U.S. suppliers under a commercial teaming agreement to design, develop and manufacture defense articles to meet a foreign government’s requirements. U.S. exporters seeking such authorization must provide detailed information concerning the scope of the project, including other exporters, U.S. subcontractors, and planned exports (including re-exports) of defense articles, defense services, and technical data, and meet the other requirements set forth in paragraph (b) of this section.

(2) *Major program authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Directorate of Defense Trade Controls may provide

comprehensive authorizations for well circumscribed commercially developed “major program”. This variant would be available where a single registered U.S. exporter defines in advance the parameters of a broad commercial program for which the registrant will be providing all phases of the necessary support (including the needed hardware, technical data, defense services, development, manufacturing, and logistic support). U.S. exporters seeking such authorization must provide detailed information concerning the scope of the program, including planned exports (including re-exports) of defense articles, defense services, and technical data, and meet the other requirements set forth in paragraph (b) of this section.

(3)(i) *Global project authorization.* With respect to NATO members, Australia, Japan, and Sweden, the Directorate of Defense Trade Controls may provide a comprehensive “Global Project Authorization” to registered U.S. exporters for exports of defense articles, technical data or defense services in support of government to government cooperative projects (covering research and development or production) with one of these countries undertaken pursuant to an agreement between the U.S. Government and the government of such country, or a memorandum of understanding/agreement between the Department of Defense and the country’s Ministry of Defense.

(ii) A set of standard terms and conditions derived from and corresponding to the breadth of the activities and phases covered in such a cooperative MOU will provide the basis for this comprehensive authorization for all U.S. exporters (and foreign end users) identified by DoD as participating in such cooperative project. Such authorizations may cover a broad range of defined activities in support of such programs including multiple shipments of defense articles and technical data and performance of defense services for extended periods, and re-exports to approved end users.

(iii) Eligible end users will be limited to ministries of defense of MOU signatory countries and foreign companies